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| 10 | BEFORE THE BOARD OF REGISTERED NURSING | |
| 11 | DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA | |
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| 13 | In the Matter of the Accusation Against: | Case No. 2008-67 |
| 14 | EMMALYN DEGUZMAN CUBILLO 2433 Plaza Eva | ACCUSATION |
| 15 | Chula Vista, California 91914 | |
| 16 | Registered Nurse License No. 544294 | |
| 17 | Respondent. | |
| 18 | | |
| 19 | Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges: | |
| 20 | <u>PARTIES</u> | |
| 21 | Complainant brings this Accusation solely in her official capacity as the | |
| 22 | Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs. | |
| 23 | Registered Nurse License | |
| 24 | 2. On or about June 23, 1998, the Board of Registered Nursing issued | |
| 25 | Registered Nurse License Number 544294 to Emmalyn DeGuzman Cubillo ("Respondent"). The | |
| 26 | registered nurse license was in full force and effect at all times relevant to the charges brought | |
| 27 | herein and will expire on October 31, 2007, unless renewed. | |
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STATUTORY PROVISIONS

- 3. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with Code section 2750) of the Nursing Practice Act.
- 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.
 - 5. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- (a) Unprofessional conduct, which includes, but is not limited to, the following:
- (1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.

REGULATORY PROVISION

6. California Code of Regulations, title 16, section 1442, states:

As used in section 2761 of the code, "gross negligence" includes an extreme departure from the standard of care which under similar circumstances, would have ordinarily been exercised by a competent registered nurse. Such an extreme departure means the repeated failure to provide nursing care as required or failure to provide care or exercise ordinary precaution in a single situation which the nurse knew, or should have known, could have jeopardized the client's health or life.

COST RECOVERY

7. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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8. 1 **DRUG** 2 "Dilaudid," a brand of hydromorphone, is a Schedule II controlled substance as 3 designated by Health and Safety Code section 11055, subdivision (b)(1)(K), and a dangerous 4 drug under Code section 4022 in that under federal or state law it requires a prescription. 5 FIRST CAUSE FOR DISCIPLINE 6 (Gross Negligence) 7 9. Respondent's license is subject to discipline under Code section 2761, 8 subdivision (a)(1), on the grounds of unprofessional conduct, in that on or about November 25, 9 2003, while on duty as a registered nurse at Kaiser Permanente, San Diego, California, and caring 10 for B.P., a post-operative patient, Respondent committed acts constituting gross negligence, as 11 defined in California Code of Regulations, section 1442. Respondent administered Dilaudid, 8 mg intravenously instead of Morphine 8 mg to patient B. P., causing B.P. to be unresponsive, 12 13 which resulted in a code blue. 14 SECOND CAUSE FOR DISCIPLINE 15 (Unprofessional Conduct) 10. 16 Respondent is subject to discipline under Code section 2761, subdivision (a), on the grounds of unprofessional conduct, as more particularly set forth in paragraph 9, 17 18 above. 19 **PRAYER** 20 WHEREFORE, Complainant requests that a hearing be held on the matters herein 21 alleged, and that following the hearing, the Board of Registered Nursing issue a decision: 22 1. Revoking or suspending Registered Nurse License Number 544294, issued 23 to Emmalyn DeGuzman Cubillo; 24 /// 25 /// 26 ///

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| 1 | 2. Ordering Emmalyn DeGuzman Cubillo to pay the Board of Registered | |
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| 2 | Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Code | |
| 3 | section 125.3; and, | |
| 4 | 3. Taking such other and further action as deemed necessary and proper. | |
| 5 | | |
| 6 | DATED: | |
| 7 | | |
| 8 | Ollof Huchberg for RUTH ANN TERRY, M.P.H., R.N. | |
| 9 | RUTH ANN TERRY, M.P.H., R.N. Executive Officer | |
| 10 | Board of Registered Nursing Department of Consumer Affairs | |
| 11 | State of California Complainant | |
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